

3245

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 23, 2009

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Introduced by M. of A. PHEFFER, GABRYSZAK -- Multi-Sponsored by -- M. of  
A. ALFANO, BARRA, GIANARIS -- read once and referred to the Committee  
on Consumer Affairs and Protection

AN ACT to amend the public service law, in relation to unauthorized  
changes in suppliers of natural gas and electric service

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 11 of section 65 of the public service law, as  
2     added by chapter 693 of the laws of 1985, is renumbered subdivision 12  
3     and a new subdivision 13 is added to read as follows:  
4     13. UNAUTHORIZED CHANGES IN NATURAL GAS OR ELECTRIC SERVICE PROHIBIT-  
5     ED. (A) NO SUPPLIER OF GAS OR ELECTRIC SERVICE OR ANY PERSON, FIRM OR  
6     CORPORATION ACTING AS SUCH SUPPLIER'S AGENT OR REPRESENTATIVE SHALL ON  
7     BEHALF OF A CUSTOMER MAKE OR DIRECT ANY CHANGE IN A SUPPLIER OF GAS OR  
8     ELECTRIC SERVICE UNLESS SUCH SUPPLIER, AGENT OR REPRESENTATIVE COMPLIES  
9     WITH REQUIREMENTS TO AUTHORIZE AND VERIFY THE CHANGE. THE COMMISSION  
10    SHALL HAVE THE AUTHORITY TO ESTABLISH REQUIREMENTS FOR OBTAINING THE  
11    AUTHORIZATION OF A CUSTOMER TO EFFECT A CHANGE IN THE CUSTOMER'S SUPPLI-  
12    ER OF GAS OR ELECTRIC SERVICE AND FOR THE VERIFICATION OF SUCH CHANGE.  
13    IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS SUBDIVISION, THE ACT  
14    OF ANY PERSON, FIRM OR CORPORATION ACTING AS AN AGENT OR REPRESENTATIVE  
15    OF A SUPPLIER OF GAS OR ELECTRIC SERVICE SHALL BE DEEMED TO BE THE ACT  
16    OF SUCH SUPPLIER OF GAS OR ELECTRIC SERVICE. FOR THE PURPOSES OF THIS  
17    SUBDIVISION, "SUPPLIER OF GAS OR ELECTRIC SERVICE" SHALL INCLUDE ANY  
18    PERSON, FIRM OR CORPORATION THAT OFFERS, SELLS OR DELIVERS ALL OR PART  
19    OF NATURAL GAS OR ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, A GAS  
20    OR ELECTRIC DISTRIBUTION COMPANY, A GAS OR ELECTRIC CORPORATION, A GAS  
21    OR ELECTRICITY PROVIDER, MARKETER, AGGREGATOR OR BROKER.  
22    (B) THE FAILURE TO COMPLY WITH THE PROVISIONS IN THIS SUBDIVISION  
23    SHALL SUBJECT A SUPPLIER OF GAS OR ELECTRIC SERVICE TO EITHER THE JUDI-  
24    CIAL PENALTY AUTHORIZED IN SECTION TWENTY-FIVE OF THIS CHAPTER FOR THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD06901-01-9

1 FAILURE OR NEGLECT TO OBEY OR COMPLY WITH A PROVISION OF THIS CHAPTER OR  
2 THE ADMINISTRATIVE PENALTY ESTABLISHED IN THIS SUBDIVISION. IN SEEKING  
3 SUCH JUDICIAL PENALTY OR ASSESSING SUCH ADMINISTRATIVE PENALTY, THE  
4 COMMISSION SHALL TAKE INTO ACCOUNT THE NATURE, CIRCUMSTANCES, EXTENT,  
5 GRAVITY AND NUMBER OF THE VIOLATIONS, AND WITH RESPECT TO THE VIOLATOR,  
6 THE DEGREE OF CULPABILITY, ANY HISTORY OF PRIOR OFFENSES AND REPEATED  
7 VIOLATIONS, AND SUCH OTHER MATTERS AS MAY BE APPROPRIATE AND RELEVANT.  
8 THE REMEDIES PROVIDED BY THIS SUBDIVISION SHALL BE IN ADDITION TO ANY  
9 OTHER REMEDIES PROVIDED BY LAW.

10 (C) THE COMMISSION, AFTER OPPORTUNITY FOR A HEARING, SHALL HAVE THE  
11 AUTHORITY TO ASSESS DIRECTLY AN ADMINISTRATIVE PENALTY AGAINST ANY  
12 SUPPLIER OF GAS OR ELECTRIC SERVICE FOR EACH VIOLATION OF THIS SUBDIVI-  
13 SION OR ORDER OF THE COMMISSION IMPLEMENTING OR ENFORCING THE PROVISIONS  
14 OF THIS SUBDIVISION. SUCH PENALTY SHALL NOT EXCEED ONE THOUSAND DOLLARS  
15 FOR EACH VIOLATION ASSOCIATED WITH EACH METER SERVICE POINT. ALL MONEYS  
16 RECOVERED FROM ANY ADMINISTRATIVE PENALTY SHALL BE PAID INTO THE STATE  
17 TREASURY TO THE CREDIT OF THE GENERAL FUND.

18 (D) WHENEVER THE COMMISSION DETERMINES THAT ANY SUPPLIER OF GAS OR  
19 ELECTRIC SERVICE IS VIOLATING OR ABOUT TO VIOLATE ANY PROVISION OF THIS  
20 SUBDIVISION OR ANY REGULATION OR ORDER OF THE COMMISSION IMPLEMENTING OR  
21 ENFORCING THE PROVISIONS OF THIS SUBDIVISION, OR HAS FAILED TO PAY ANY  
22 PENALTY ASSESSED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THE  
23 COMMISSIONER SHALL HAVE POWER TO BRING AN ACTION OR ENFORCEMENT PROCEED-  
24 ING AS PROVIDED BY SECTION TWENTY-SIX OF THIS CHAPTER.

25 S 2. This act shall take effect on the one hundred twentieth day  
26 after it shall have become a law; provided, however, that effective  
27 immediately, the addition, amendment and/or repeal of any rule or regu-  
28 lation necessary for the implementation of this act on its effective  
29 date are authorized and directed to be made and completed on or before  
30 such effective date.